# LOCAL COURT RULES


District Court
of
Clark County,
Washington

Adopted September 1, 1995
Including amendments through May 5, 2011

**LOCAL RULES OF THE DISTRICT COURT**
**FOR CLARK COUNTY, WASHINGTON**

**TABLE OF CONTENTS**

# LOCAL RULES

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# DISTRICT COURT OF CLARK COUNTY

## STATE OF WASHINGTON

**Adopted Effective September 1, 1995**
**Including amendments through May 5, 2011**

The following rules are hereby adopted by the Clark County District Court, superseding all former rules and special rules.

## GENERAL RULES

### LGR RULE 14 FORMAT FOR PLEADING AND OTHER PAPERS

**(a) Format Requirements.** All pleadings, motions, and other papers filed with the court shall be legibly written or printed. The use of letter-size paper (8-1/2 by 11 inches) is mandatory. The writing or printing shall appear on only one side of the page. The top margin of the first page shall be a minimum of three inches, the bottom margin shall be a minimum of one inch and the side margins shall be a minimum of one inch. All subsequent pages shall have a minimum of one inch margins. Papers filed shall not include any colored pages, highlighting or other colored markings.

(1) Format Recommendations. (3) Bottom Notation. (A) Signatures Required. Every order presented for a Judge's signature shall include a portion of the text on the signature page and shall be signed by the individual attorney presenting it on the lower left-hand corner of the page to be signed. Every page shall include the case number.

(2) Pleading to be Dated and Names Typed. All pleadings, motions, and other papers to be filed with the clerk shall be dated by the person preparing the same. The names of all persons signing a pleading or other paper should be typed under the signature. If signed by an attorney, the attorney's Washington Bar Association number must be set forth.

(3) Pro se pleadings shall be typewritten or neatly printed, shall conform to the format recommendations of CRLJ 10(e), and shall contain the party's mailing address and street address where service of process and other papers may be made upon him/her or the same may be rejected for filing by the clerk. (Adopted April 26, 2007)

(4) Audio/Visual Exhibits. When testimony or evidence is to be given via video tape or motion pictures, it is the responsibility of the party introducing the testimony or evidence to provide the proper equipment for viewing such testimony or evidence, or to provide the court the testimony or evidence in CD or DVD format. (Adopted June 24, 2008)

**(d)** In addition to the format requirements of GR14 and CR10, all pleadings motions and other papers filed with the District Court shall be legibly written or printed with numbered lines, double-spaced type except for generally recognized exceptions such as lengthy quotes or exhibits, twelve (12) point type , and using bonded or at least 20 lb. grade of paper. Any submission not meeting such requirements may be returned for resubmission in compliance with the rule. (Adopted March 5, 2002)

# I. ADMINISTRATIVE RULES

## LARLJ 0.1 COURT ORGANIZATION AND MANAGEMENT

The general management of the court shall be vested in the Presiding Judge and his/her duties and powers are as set forth below, pursuant to and in conjunction with ARLJ 5 and GR 29.

## LARLJ 0.2 ATTIRE OF COUNSEL AND LITIGANTS

All attorneys appearing before the court shall be attired in a manner that is consistent with the current, generally prevailing and accepted business attire for professional men and women in the local community. Male attorneys shall wear coats and ties. Female attorneys shall wear dresses, skirts, pant suits, or jacket and slacks. Any attire that is distracting or detrimental to the seriousness of the proceedings or disruptive of decorum should be avoided. Counsel are responsible for informing litigants that they should wear clean and neat-appearing clothing.

(Adopted April 26, 2007)

## LARLJ 5 PRESIDING JUDGE

**(a) Appointment and Term.** The term of Presiding Judge is to be two (2) years in duration, unless terminated earlier by a vote of the majority of all the sitting Judges. The Presiding Judge shall be elected by a majority of the sitting Judges on or before October 31st of each year so that notice of election may be given pursuant to GR 29. The Presiding Judge may be re-elected for additional terms. (Effective 09-01-02.) (ARLJ 5 was repealed 4/30/02)

**(b) Duties.**

(1) The Presiding Judge will act as Chief Administrative Judge and will see that policy of the Court, as determined by a majority of the Judges, is implemented by the Court Administrator.

(2) The Presiding Judge will call meetings of the Court and preside over said meetings.

(3) The Presiding Judge will adopt and implement a Court schedule with the consent of the majority of the Judges.

(4) The Presiding Judge will be the spokesperson for the Court in response to media inquiries.

(5) The Presiding Judge will be responsible for long range planning.

(6) The Presiding Judge will be responsible for relations with other elected officials, and other duties consistent with GR 29. (Effective 09-01-02)

(7) All major policy decisions will require the approval of a majority of the Judges, however, the Presiding Judge will be responsible for overseeing the budget, implementation of new technologies and the administrative function of the Court. The Presiding Judge may delegate any of his/her responsibilities to other Judges and create departments or committees to handle complex problems or functions as he or she sees fit.

## LARLJ 5.1 ACTING PRESIDING JUDGE

**(a) Election.** The Court may by vote of a majority of the sitting Judges appoint an Acting Presiding Judge to conform to the Administrative Rules for Courts of Limited Jurisdiction.

**(b) Duties.** The Acting Presiding Judge will assume the duties of the Presiding Judge in the case of a prolonged absence, death or incapacity of the Presiding Judge.

**(c) Status.** The Acting Presiding Judge shall have the same status as all other sitting Judges with regard to duties and assignments by the Presiding Judge and eligibility to be elected Presiding Judge.

## II. CIVIL RULES

### LCRLJ 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

**(d) Filing.**

(5) *Motions.* No motion for any order shall be heard unless the pleadings and citation have been filed with the Clerk not less than five court days before the hearing unless a motion for order shortening time has been filed and granted by the court.
(Approved February 2, 2011)

(6) *Documents Not to Be Filed:*

(i) Interrogatories and depositions without written permission of Court, unless necessary for the disposition of a motion or objection;

(ii) Unanswered request for admissions unless necessary for the disposition of a motion or objection;

(iii) Photocopies of reported cases, statutes or texts appended to a brief or otherwise, shall not be filed, but may be furnished directly to the Judge hearing the matter.

(iv) Documents or copies thereof which should be received as exhibit rather than part of the court file.

(v) Requests for discovery and/or answer shall not be filed unless necessary for the disposition of a motion or objection.

(7) *Offers of Settlement.* An offer of settlement made pursuant to Chapter 4.84 of the Revised Code of Washington shall not be filed or communicated to the trier of the fact in violation of Section 4.84.280 of the Revised Code of Washington prior to completion of trial. A violation of this order shall result in the denial of the reasonable attorney fee. (See LCRLJ 68A)

### LCRLJ 33. INTERROGATORIES TO PARTIES

**(e) Limited Interrogatories Without Prior Approval of the Court: Parties Represented by Attorneys.** In those civil actions in which all parties are represented by counsel, any party may serve upon any other party no more than two sets of written interrogatories containing not more than 20 questions per set without prior permission of the Court. Any subsections shall be treated as a question for purposes of the 20 questions limitation. Interrogatories authorized under this local rule shall conform to the provisions of Civil Rule 33.

### LCRLJ 40. ASSIGNMENT OF CASES

**(c) Methods.**

(1) *Notice to Set for Trial.* A party desiring to place a case on the trial readiness calendar shall file a "Notice to Set for Trial" on a form prescribed by the Court.

(2) *Certification.* By filing a Notice to Set for Trial, a party certifies that the case is fully at issue with all necessary parties joined, all anticipated discovery has been or will be completed before trial and all other counsel have been served with a copy of the Notice.

(3) *Response to Notice to Set for Trial.* A party who objects to a case being set for trial, or who otherwise disagrees with the information on the "Notice," shall file and serve a "Response to Notice to Set for Trial" on a form prescribed by the Court within 10 days of the date of mailing or personal service of the "Notice." (See attached.) The Response shall be noted for hearing the objection not more than 25 days after the date of mailing or personal service of the "Notice to Set for Trial." No response is necessary if the party agrees with the "Notice to Set for Trial."

(4) *Call for Trial.* Any case placed on the readiness calendar will be subject to call for trial to be assigned a specific date for trial. The Court will give reasonable notice of the trial date assigned.

(5) *Continuances.* When a case has been called from the readiness calendar and set, it shall proceed to trial or be dismissed, unless good cause is shown for continuance, or the Court may impose such terms as are reasonable and in addition may impose costs upon counsel who has filed a Notice to Set for Trial, or who has failed to object thereto and is not prepared to proceed to trial. No request for continuance, including stipulated motions, will be considered without an affidavit giving the particulars necessitating a continuance in accordance with CRLJ 40(d) and (e). Continued cases may be removed from the trial calendar at the discretion of the court and, if removed, will be recalendared upon filing a new Notice to Set for Trial.

## LCRLJ 43. TAKING OF TESTIMONY

**(e) Evidence on Motions.**

(1) Motions shall be heard on the pleadings, affidavits, published depositions and other papers filed unless otherwise directed by the Court. Any counter-affidavit shall be served upon the opposing party not later than (3) three days prior to the date of the hearing, or movant shall have the option of a postponement of the hearing. Affidavits strictly in reply to a counter-affidavit may be served and considered at the hearing.

## LCRLJ 54. JUDGMENTS AND COSTS

**(c) Demand for Default Judgment - Method - Ex-Parte Judgments and Orders.** Counsel presenting a judgment or seeking entry of an order shall be responsible for seeing that all applicable papers are filed and that the Court file is provided to the Judge. Counsel may present routine ex-parte or stipulated matters based on the record in the file by mail addressed to the assigned Judge. Self addressed, stamped envelopes shall be provided for return of any conformed materials and/or rejected orders. All judgments shall contain a Judgment Summary in conformity with RCW 4.64.030.

**(d) Costs - Attorney Fees.**

(1) Reasonable attorney fees when allowed by statute or contract will be determined on a case by case basis and awarded in the sound discretion of the Court upon satisfactory justification, which may include documentation of time and charges.

In appropriate cases, when a Default Judgment is entered, there will be a minimum of $250. Additional reasonable attorney fees may be allowed on the basis of a maximum of 50% of the first $500.00 of the principal amount of the judgment, plus 10% of any balance over $500.00, without formal justification or documentation.

(2) If reasonable attorney fees are requested based on a contract provision, the contract provision must be conspicuously highlighted or ***underlined*** to be readily ascertainable.

(3) Specific citation of authority must accompany requests for reasonable attorney fees on any basis other than contract provision.

(4) Statutory attorney fees may be granted when reasonable attorney fees are not authorized. (See RCW 12.20.060)

(5) *Offers of Settlement*. Improper communication of an offer of settlement shall result in the denial of reasonable attorney fees (see LCRLJ 5(d)(7) and LCRLJ 68).

## LCRLJ 58. ENTRY OF JUDGMENTS

**(d) Judgment on a Promissory Note.** No judgment on a promissory note will be signed until the original note has been filed with the Court, absent proof of loss or destruction.

## LCRLJ 68A. OFFER OF SETTLEMENT

**(a) Form.** An Offer of Settlement shall clearly state it is an Offer of Settlement and specifically refer to Chapter 4.84 of the Revised Code of Washington.

(1) *Method of Service*. Service shall be made as permitted in CRLJ 5.

(2) *Time of Service*. Service shall be made in accordance with RCW 4.84.280 and/or CRLJ 68.

(3) *Pro-Se Parties*. Offers of Settlement served on pro-se parties shall include a statement that failure or refusal to accept this offer may result in a reasonable attorney fee being assessed at the time of judgment. Failure to include such wording will be grounds for the Court to deny reasonable attorney fees.

## LCRLJ 69. EXECUTION, SUPPLEMENTAL PROCEEDINGS AND GARNISHMENTS

**(a) Scope.** Execution, supplemental proceedings and garnishments are governed by Statute (See Titles 6 and 7 of the Revised Code of Washington).

(1) *Supplemental Proceedings*. In all supplemental proceedings wherein an order is issued pursuant thereto requiring the personal attendance of a party to be examined in open court and in orders to show cause the order must include the following words in capital letters.

> YOUR FAILURE TO APPEAR AS SET FORTH AT THE TIME, DATE, AND PLACE THEREOF MAY CAUSE THE COURT TO ISSUE A BENCH WARRANT FOR YOUR APPREHENSION AND CONFINEMENT IN JAIL UNTIL SUCH TIME AS THE MATTER CAN BE HEARD, UNLESS BAIL IS FURNISHED AS PROVIDED IN SUCH BENCH WARRANT.

The failure to include such wording will be grounds for the Court to refuse to issue a bench warrant.

(2) *Bench Warrant*. In the event the judgment debtor fails to appear for examination in a supplemental proceeding, the Court may issue a Bench Warrant for the defendant's arrest upon plaintiff's motion, provided that proof of personal service on the judgment debtor of the order to appear for examination has been filed. Such Bench Warrant shall provide for bail in the presumptive amount of $500.00, unless the size of the judgment warrants setting a greater or lesser amount. Upon arrest on a Civil Bench Warrant, the defendant shall be released by the jail upon posting the bail amount or surety bond. In the event that the defendant is unable to post bail, the defendant shall be brought before the Court at the next regularly scheduled "in custody" time. Verbal or oral notice of the bench warrant hearing will be given to the opposing party or counsel one (1) hour or more prior to the scheduled hearing. In the event the opposing party is

unavailable for said hearing, the defendant may be released by order of the District Court conditioned upon the party's appearance at a rescheduled hearing.

Upon completion of the examination of the judgment debtor, the bail posted shall be exonerated unless the Court orders otherwise.

(3) *Judgment Against Garnishee; Order to Disburse.*

(i) No judgment against a garnishee defendant, or order to pay into Court, or order to the clerk to pay out any sum received pursuant to a Writ of Garnishment, will be signed except after judgment is entered against the defendant and until the party who caused the writ to issue shall have filed proof of service and sufficient time shall have elapsed as provided by statute. (RCW 6.27).

(ii) The pattern form of "Judgment and Order to Disburse on Answer of Garnishee Defendant", as proposed by the Office of the Administrator for the Courts of the State of Washington, is hereby adopted for use in Clark County District Court as modified to include a provision for disbursement. Failure to follow such form may be grounds for denial of the order.

(Amended 6-20-06)

## III. SMALL CLAIMS RULES

### LSC 1. COUNTERCLAIM

The defendant may counterclaim against the plaintiff for an amount up to $4,000.00. The defendant must notify the plaintiff of such counterclaim at least 21 days prior to the trial date unless waived by the Court. (Amended May 5, 2002)

### LSC 2. MOTION TO SET ASIDE DEFAULT JUDGMENT

**(a) Filing.** A party may file a motion to set aside a default judgment or dismissal entered at time of trial for failure of such party to have appeared for trial. The motion shall set forth "good cause" reasons for having failed to appear for trial.

**(b) Time for Motion.** The written motion must be filed within 30 days of entry of such default. (Amended May 5, 2002)

**(c) Reset Fee.** Before the Court will set a hearing on a motion to set aside a default judgment, the moving party must pay a reset fee of $50.00 to the Court. The reset fee will be paid over to the opposing party regardless of the outcome of the case.

### LSC 3. CLERK'S DISMISSAL

In all small claims cases wherein there has been no action of record during the preceding 12 months, the clerk of the Court shall mail notice to the parties that the case will be dismissed by the Court for want of prosecution unless within 30 days following the mailing, action of record is made or an application in writing is made to the Court and good cause shown why it should be continued as a pending case. If such application is not made or good cause is not shown, the Court shall dismiss each such case without prejudice. The cost of filing such order of dismissal with the clerk shall not be assessed against either party.

### LSC 4. SMALL CLAIMS MEDIATION

**(a) Mediation Conference.** A Mediation Conference is mandatory before trial. The court will set a Mediation Conference date at the time of filing of answer to the complaint. Both parties must attend the Mediation Conference. If the plaintiff fails to appear, a dismissal will be entered. If the defendant fails to appear, their answer, if one was filed, will be stricken and a default judgment entered. Parties must bring their evidence to the mediation, however, no witnesses are allowed. The purpose of mediation is to settle the case if possible; if no settlement is made at mediation, the case will go to trial. Attorneys and paralegals may not represent the parties at mediation.

**(b) Exemption from Mediation.** The parties may request exemption from mandatory Mediation Conference by filing an affidavit within 14 days of receipt of the notice of the mandatory mediation conference,

wherein the parties state they have attempted to settle all issues in dispute by participating in mediation prior to filing the case.

If the parties have already submitted the case to another type of mediation or arbitration service, the case may proceed directly to trial.

**(c) Completing Mediation.** Any case assigned to mediation must complete mediation within 90 days of assignment, unless otherwise ordered by the court.

(1) In all cases assigned to mediation in which a settlement is reached, the parties shall report such settlement to the mediator and the mediator shall file a notice of such settlement with the court.

(2) The results of mediation hearings shall be reported to the court as either "settled" or "not settled".

(3) If a case is reported as "settled", the terms of the agreement, including a date of final compliance, shall be signed by the parties and filed by the mediator with the clerk of the court within 10 judicial days.

(i) The mediator shall provide the creditor with a form to report compliance or non-compliance with the terms of the settlement agreement.

(ii) Should the creditor fail to file a report of compliance or non-compliance within 30 days after the final date for compliance, or reports the terms of the settlement have been met, the clerk of the court shall dismiss the case.

(iii) Upon notice by a creditor of non-compliance with the terms of the settlement agreement, the clerk of the court shall refer the case to a judge for disposition.

(4) If the parties are not able to settle a mediated case, the case will be set for trial and not be required to arbitrate.

[Adopted April 14, 2004]

## IV. CRIMINAL RULES

### LCrRLJ 2.1 COMPLAINT-CITATION AND NOTICE

**(b) Citation and Notice to Appear**

**(7) Mandatory Appearance for Alcohol Violators.** A defendant who is charged with an offense involving alcohol as defined in RCW 46.61.502, 46.61.503, and 46.61.504 shall be required to appear in person before a judicial officer within seven days from the time of arrest or issuance of a citation pursuant to RCW 46.61.50571. Appearances required are mandatory and may not be waived.
(Modified May 4, 2011).

### LCrRLJ 2.2 WARRANT OF ARREST

**(a) Issuance of warrant….**

**(2) Probable Cause**

**(i) Waivers of Probable Cause are Presumed to be Valid Until Challenged.** A challenge to the waiver will trigger a new 48 hour period for the prosecuting agency to establish probable cause.
(Adopted June 20, 2006)

### LCrRLJ 3.1 RIGHT TO AND ASSIGNMENT OF LAWYER

**(d) Assignment of Lawyer.**

(1) Unless waived, counsel shall be provided to any person who is financially unable to obtain an attorney without causing substantial hardship to the defendant or the defendant's family.

(2) *Financial Screening.*

(i) The initial interview and financial screening to determine eligibility for counsel at public expense shall be conducted by the County Corrections Department. Said department shall make an immediate determination of eligibility. If a person is found to be partially eligible, a recommendation indicating this shall be completed and sent to the judge.

(ii) The County Corrections Department may perform the initial screening at any time without a referral from the Court as long as the person has not appeared in court. Once a person has appeared, screening may be done only after receipt of a signed referral or as noted in LCrRLJ 3.1(d)(iv) below.

(iii) The County Corrections Department shall not rescreen a defendant to determine eligibility unless it has received a referral signed by a District Court Judge.

(iv) The County Corrections Department shall rescreen, without referral, any defendant who wishes to appeal a conviction in District Court. This rescreening shall be done using Superior Court guidelines.

(v) If at any time it appears that a person has retained private counsel, has funds sufficient to do so, or is otherwise not eligible for defense services, the appointed attorney may notify the Court and ask its guidance. Conversely, if it appears that counsel previously retained by a person has withdrawn, or that a person thought to have funds sufficient to obtain private counsel is not in fact able to do so, the defendant may be referred for a redetermination of eligibility.

(3) *Reimbursement of Attorney Fees.*

(i) Partial ability to pay. A person found to be partially eligible for defense services shall be required to make reimbursement to Clark County as agreed at the time of appointment. [ Amended 2/8/06 ]

(ii) Reimbursement not required by appointed counsel. In no case shall appointed counsel set or attempt to obtain reimbursement for the costs of defense services.

**(e) Withdrawal of lawyer.**

(1) *Duties of attorney before withdrawal.*

(a) Before asking permission to withdraw from the court, or filing a notice of withdrawal, counsel of record should attempt to determine whether or not a client who has been sentenced, or who is facing sentencing, intends to pursue an appeal of his or her conviction.

(b) Upon being notified that a client who has been sentenced or is facing sentencing wishes to file an appeal, the attorney of record shall do the following before withdrawing from the representation:

(i) Prepare and file the notice of appeal in the form prescribed by the court rule.

(ii) In the case of an indigent client, prepare a motion and order in forma pauperis (IFP), providing for the preparation of the record, and transmittal of clerk's papers at public expense, waiving the filing fee for the appeal, and providing for appointment of new counsel on appeal. This order should be presented to the sentencing court, and filed with the clerk by the withdrawing attorney. The order shall require the clerk of the court to promptly notify new counsel of the appointment for the appeal.

(iii) Present and file an order setting conditions of release on appeal. [Adopted February 15, 2005]

**(f) Services Other Than a Lawyer**

(2)

(i) All motions for the appointment of expert, investigative, or other services shall be made to the Court. They must be accompanied by an affidavit demonstrating the reason(s) for the motion. If the Court approves the motion, pursuant to CrLJ 3.1 (f)(2) the court hereby delegates to the Clark County Indigent Defense Coordinator the authority to authorize the services, including but not limited to the amount of public funds to be expended for said services.
(Adopted April 26, 2007)

## LCrRLJ 3.2 PRETRIAL RELEASE

**(a) Personal Recognizance.**

(1) Designated members of the staff of the Clark County Corrections Department Monitoring Unit are authorized to release persons who are charged with misdemeanor offenses on their own recognizance. When released, the defendant shall be given a date to appear in court as specified in the District Court bail schedule.

(2) The arresting officer shall indicate "to be set" in the space for court date on the citation for any defendant detained at the jail for a misdemeanor or gross misdemeanor. The exception to this occurs when the arresting officer releases the defendant on personal recognizance. In such cases, the officer shall specify a return date for appearance in court as specified in the District Court bail schedule.

(3) When no one from the County Corrections Department Monitoring Unit is on duty, Jail supervisory personnel may grant recognizance to certain defendants charged only with misdemeanor or gross misdemeanor offenses. The defendant shall be given an appearance date as specified in the District Court bail schedule. This authority is to be used for defendants who have been residents of Clark County for more than one year.

**(b) Bail.**

(1) Misdemeanor bail shall not be combined with felony bail. If cash is received, it shall be kept separate. If a bail bond agent posts bail, he or she shall post separate bonds. A separate bond shall be posted for each new complaint.

(2) If someone other than the defendant posts cash bail, the person receiving the bail shall obtain the correct name and address of the payer.

(3) A defendant who is released on bail shall be given an appearance date as specified in the District Court bail schedule.

**(c) Bail Schedule**. The Court shall periodically publish a bail schedule which will include any bail schedule and penalty promulgated by the Supreme Court of the State of Washington. The schedule will also include appearance days and times.

Said schedule shall be provided to all law enforcement officers within the county.

Said schedule shall have the force and effect of local court rule for all the courts under the authority of the District Court of Clark County.

**(d) Forfeiture.** A copy of the Notice of Trial Setting shall be furnished to the bail bond agent for a defendant.

If the defendant fails to appear as directed by the Court, a bail forfeiture shall be immediately issued. The bail bond agent shall have 60 days to locate the defendant. At the end of the 60 days, the full amount of the bond shall be due.

If the bail bond agent presents the defendant to the Court before the 60 days has elapsed, costs may be imposed against the defendant. The costs shall be $50.00 for failure to appear at arraignment, pretrial or sentencing; $100.00 for failure to appear for trial; or $300.00 for failure to appear at a jury trial.

If the defendant fails to appear for sentencing or pretrial or arraignment, but does appear within (5) five days of the original appearance date, the court costs shall be waived. There shall be no such waiver for a defendant who fails to appear for trial.

## LCrRLJ 3.3 TIME FOR TRIAL

**(h) Continuances.** All motions for continuance shall be heard by notice and citation on the appropriate motion docket. Only in extreme emergencies shall the presiding judge or the trial judge consider a motion for continuance without the proper notice and citation.

## LCrRLJ 3.4 VIDEO CONFERENCE PROCEEDINGS

Trial Court proceedings including entry of Statement of Defendant of Guilty and sentencing and post sentencing hearings may be conducted by video conference upon agreement of the parties either in writing or on the record, and upon approval of the trial court judge. (Adopted Effective October 1, 2004)

## LCrRLJ 4.1 ARRAIGNMENT

**(d) Appearance by Defendant's Lawyer.** Attorneys at law, admitted to practice in the State of Washington, may enter a plea of not guilty in writing on all cases filed in the District Court. Defendants are required to appear in person for driving under the influence and domestic violence arraignments.

**(e) Deferred Prosecution.** A petition for deferred prosecution under RCW 10.05 shall be on the form prescribed by the Court, which is attached as an appendix to these rules and available in the District Court clerk's office. [Adopted effective March 12, 1997.]

## LCrRLJ 4.11 PRETRIAL CONFERENCES

[Repealed March 12, 1997]

## LCrRLJ 4.12 READINESS HEARINGS

[Repealed March 12, 1997]

## LCrRLJ 4.5 PRETRIAL PROCEDURES

**(a) Pretrial Conference.** The court shall set pretrial conferences for all cases where a not guilty plea has been entered. Pro se defendants who enter a plea of not guilty at arraignment shall appear on the date scheduled by the court for a pretrial conference with the prosecuting attorney/city attorney to discuss their cases. Failure to appear for the pretrial conference may result in the issuance of a bench warrant and/or forfeiture of any bail or bond. Defense attorneys shall make arrangements with the prosecuting attorney/city attorney to exchange information and discuss the case.

**(b) Pretrial Hearing.**

(1) In all cases in which a defendant has entered a plea of not guilty, a pretrial hearing shall be set approximately 45 days after arraignment. Said hearing shall provide an opportunity for plea negotiations, omnibus, resolution of discovery issues, and trial setting. Following the hearing, if a plea is not negotiated, an order shall be entered setting forth the following: (i) discovery schedule, (ii) date and nature of pretrial motions, (iii) date of readiness hearing, (iv) date of trial and (v) time for filing witness lists.

(2) The prosecuting attorney/city attorney, defense attorney, and defendant shall be required to attend the pretrial hearing, with the exception that a defendant represented by counsel may waive his/her appearance on the form prescribed by the court, a copy of which will be made available in the District Court clerk's office. The waiver shall not be executed more than 7 days prior to the pretrial hearing. Absent a waiver, failure to attend may result in the issuance of a bench warrant and/or forfeiture of any bail or bond.

**(c) Readiness Hearing.** The prosecuting attorney/city attorney, defense attorney and defendant shall appear in court on the date scheduled for readiness hearing to confirm their readiness to proceed with the scheduled trial. In the event the defendant fails to appear, the jury shall be canceled, a bench warrant may be issued, bail or bond may be forfeited, and costs may be imposed at the discretion of the court. In the event the defendant waives the jury trial subsequent to the readiness hearing, costs may be imposed at the discretion of the court.
[Adopted effective March 12, 1997.]

## LCrRLJ 4.8 SUBPOENAS

**(a) Issuance for Witnesses.** If a witness in a criminal matter is to be subpoenaed, the person making the request should prepare the subpoena and present it to the Court for signature on the subpoena. All subpoenas must be prepared in triplicate prior to the presentation for signature.

Any request for more than three subpoenas must be approved by the Court.

## V. INFRACTION RULES

**Proposed LIRLJ 2.4 Response to Notice of Infraction**

**(a) Generally**. A person who has been served with a notice of infraction must respond to the notice within 15 days of the date the notice is personally served or, if the notice is served by mail, within 18 days of the date the notice is mailed.

**(b) Alternatives.** A person may respond to a notice of infraction by:

(1) Paying the amount of the monetary penalty in accordance with applicable law, in which case the court shall enter a judgment that the defendant has committed the infraction;

(2) Contesting the determination that an infraction occurred by requesting a hearing in accordance with applicable law;

(3) Requesting a hearing to explain mitigating circumstances surrounding the commission of the infraction in accordance with applicable law; or

(4) Submitting a written statement either contesting the infraction or explaining mitigating circumstances. The statement shall contain the person's promise to pay the monetary penalty authorized by law if the infraction is found to be committed. For contested hearing, the statement shall be executed in substantially the following form:

I hereby state as follows:

I promise that if it is determined that I committed the infraction for which I was cited, I will pay the monetary penalty authorized by law and assessed by the court. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____ _____

(Date and Place) (Signature)

I understand that if this form is submitted by e-mail, my typed name on the signature line will qualify as my signature for purposes of the above certification.

For mitigation hearings, the statement shall be executed in substantially the following form:

I hereby state as follows:

I promise to pay the monetary penalty authorized by law or, at the discretion of the court, any reduced penalty that may be set.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____ _____

(Date and Place) (Signature)

I understand that if this form is submitted by e-mail, my typed name on the signature line will qualify as my signature for purposes of the above certification.

**(c) Method of Response.** A person may respond to a notice of infraction either personally, by mail or by e-mail. If the response is mailed or e-mailed, it must be postmarked or e-mailed not later than midnight of the day the response is due.
[Adopted: November 18, 2009]

## LIRLJ 2.6 INFRACTION HEARINGS

**(c) Decisions on Written Statements.** Mitigation hearings shall generally be held in open court. The procedure set forth in IRLJ 3.5, allowing decisions on written statements is authorized
[Adopted March 4, 1998; Amended May 5, 2002].

## LIRLJ 3.5 DECISION ON WRITTEN STATEMENTS

**(a) Contested Hearings.** The court shall examine the citing officer's report and any statement submitted by the defendant. The examination shall take place within 120 days after the defendant filed the response to the notice of infraction. The examination may be held in chambers and shall not be governed by the Rules of Evidence.

(1) *Factual Determination.* The court shall determine whether the plaintiff has proved by a preponderance of all evidence submitted that the defendant has committed the infraction.
(2) *Disposition.* If the court determines that the infraction has been committed, it may assess a penalty in accordance with rule 3.3.
(3) *Notice to Parties.* The court shall notify the parties in writing whether an infraction was found to have been committed and what penalty, if any, was imposed.
(4) *No appeal Permitted.* There shall be no appeal from a decision on written statements.

**(b) Mitigation Hearings.** Mitigation hearings based upon written statements may be held in chambers.
[Adopted: November 18, 2009]